

§ 16.101

(3) The FAA provides opportunity for a hearing to the respondent and the respondent waives the opportunity for a hearing as provided in subpart E of this part.

(b) In the cases described in paragraph (a) of this section, a party adversely affected by the Director's determination may file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination.

(c) A reply to an appeal may be filed with the Associate Administrator within 20 days after the date of service of the appeal.

(d) The Associate Administrator will issue a final decision and order within 60 days after the due date of the reply.

(e) If no appeal is filed within the time period specified in paragraph (b) of this section, the Director's determination becomes the final decision and order of the FAA without further action. A Director's determination that becomes final because there is no administrative appeal is not judicially reviewable.

Subpart D—Special Rules Applicable to Proceedings Initiated by the FAA

§ 16.101 Basis for the initiation of agency action.

The FAA may initiate its own investigation of any matter within the applicability of this part without having received a complaint. The investigation may include, without limitation, any of the actions described in § 16.29(b).

§ 16.103 Notice of investigation.

Following the initiation of an investigation under § 16.101, the FAA sends a notice to the person(s) subject to investigation. The notice will set forth the areas of the agency's concern and the reasons therefor; request a response to the notice within 30 days of the date of service; and inform the respondent that the FAA will, in its discretion, invite good faith efforts to resolve the matter.

§ 16.105 Failure to resolve informally.

If the matters addressed in the FAA notices are not resolved informally, the

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FAA may issue a Director's determination under § 16.31.

Subpart E—Proposed Orders of Compliance

§ 16.109 Orders terminating eligibility for grants, cease and desist orders, and other compliance orders.

This section applies to initial determinations issued under § 16.31 that provide the opportunity for a hearing.

(a) The agency will provide the opportunity for a hearing if, in the Director's determination, the agency proposes to issue an order terminating eligibility for grants pursuant to 49 U.S.C. 47106(e) and 47111(d), an order suspending the payment of grant funds, an order withholding approval of any new application to impose a passenger facility charge pursuant to section 112 of the Federal Aviation Administration Act of 1994, 49 U.S.C. 47111(e), a cease and desist order, an order directing the refund of fees unlawfully collected, or any other compliance order issued by the Administrator to carry out the provisions of the Acts, and required to be issued after notice and opportunity for a hearing. In cases in which a hearing is not required by statute, the FAA may provide opportunity for a hearing at its discretion.

(b) In a case in which the agency provides the opportunity for a hearing, the Director's determination issued under § 16.31 will include a statement of the availability of a hearing under subpart F of this part.

(c) Within 20 days after service of a Director's determination under § 16.31 and paragraph (b) of this section, a person subject to the proposed compliance order may—

(1) Request a hearing under subpart F of this part;

(2) Waive hearing and appeal the Director's determination in writing to the Associate Administrator, as provided in § 16.33;

(3) File, jointly with a complainant, a motion to withdraw the complaint and to dismiss the proposed compliance action; or

(4) Submit, jointly with the agency attorney, a proposed consent order under § 16.243(e).